

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY WRIGHT JR.,

Defendant-Appellant.

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UNPUBLISHED

April 19, 2011

No. 295571

Wayne Circuit Court

LC No. 09-009646-FH

Before: GLEICHER, P.J., and SAWYER and MARKEY, JJ.

PER CURIAM.

Defendant was convicted by a jury of felon in possession of a firearm, MCL 750.224f, possession with the intent to deliver marijuana, MCL 333.7401(2)(d)(iii), and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Defendant now appeals as of right. We affirm.

On April 8, 2009, several Detroit police officers executed a narcotics search warrant at 6757 Scotten in Detroit. Just before the raid began, Officer Dondre Penn approached the front porch of the residence and looked through a large picture window into the living room. He saw defendant holding a handgun and a plastic bag in his left hand while sitting on the couch. Defendant saw Officer Penn and threw the plastic bag and handgun to the floor just before the entry team entered the house. Officer Kathy Singleton confiscated the handgun and the plastic bag, which contained 22 smaller plastic bags of marijuana packaged for sale.

On appeal, defendant argues that the trial court improperly refused to permit him to introduce certain evidence at trial. We disagree.

We review a trial court's decision regarding the admission of evidence for an abuse of discretion. *People v Lukity*, 460 Mich 484, 488; 596 NW2d 607 (1999).

Defendant first contends that the trial court erred when it failed to admit evidence regarding the number of individuals inside and outside the house at the time of the raid. However, defendant admits that Officer Penn testified that five individuals, including defendant, were inside the house when the raid began, and he does not allege on appeal that this testimony was incorrect. Instead, it appears that defendant is challenging the trial court's refusal to permit defense counsel to call two officers who had arrested three individuals outside the house before the raid. According to defendant, these officers would testify that before the raid began, they

detained and arrested one man as he was leaving the house and walking toward a Mercedes-Benz, and arrested two other individuals sitting inside the vehicle. Two of the individuals had large amounts of money on them when they were arrested.

Defendant argues that this evidence is relevant because it has a bearing on the credibility of Officer Penn's testimony that he saw defendant holding a handgun and a plastic bag immediately before the raid began. We disagree. "'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." MRE 401. As the trial court correctly noted, evidence regarding the presence of individuals outside the house before the raid began does not make it either more probable or less probable that defendant was holding a gun and a bag of marijuana inside the house when the raid began. Defendant claims that this evidence would call the credibility of Officer Penn's testimony into question, but does not explain how this is the case. There is no indication that Officer Penn mistakenly identified one of these individuals as defendant; in fact, it is undisputed that the individuals outside the house were arrested before Officer Penn even looked in the window and saw defendant. The evidence is not relevant and, as a result, is not admissible. MRE 402.

In addition, the trial court's failure to admit the requested evidence does not violate defendant's due process rights. A defendant's right to present a defense may be limited by the rule precluding irrelevant evidence. *People v Unger*, 278 Mich App 210, 250; 749 NW2d 272 (2008). Because the proposed testimony regarding the arrest of three individuals outside the house before the raid began is irrelevant, the trial court's failure to admit this evidence did not violate defendant's due process rights.

Defendant also argues that the trial court erred when it failed to admit evidence regarding the amounts of money and other items confiscated from individuals inside and outside the house at the time of the raid. However, the trial court admitted this evidence at trial. Defense counsel called Officer Singleton, who testified that money was taken from six people during the raid. Further, Officer Singleton noted that two of the individuals arrested outside the house each had well over \$1,000 in cash on them, while defendant only had \$120 with him at the time of the raid. The trial court also admitted into evidence a copy of the search warrant, which listed the exact amounts of money taken from each person and all other items confiscated during the raid. Accordingly, defendant's claim that the trial court erred when it failed to admit this evidence lacks merit.

Affirmed.

/s/ Elizabeth L. Gleicher  
/s/ David H. Sawyer  
/s/ Jane E. Markey